

**ENTERED**

July 30, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

VS.

0.062 ACRES OF LAND, more or less,  
in STARR COUNTY, TEXAS; JOSE ROEL  
MONTALVO; et al.,

Defendants.

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CIVIL ACTION NO. 7:20-cv-00400

**ORDER**

The Court now considers the parties' "Joint Discovery/Case Management Plan Under FRCP 26(f)." <sup>1</sup> In its joint discovery plan filed on May 27, 2021, the parties requested the Court set a deadline to deposit just compensation and move for possession in this case and issue a scheduling order "upon resolution of the issue of possession." <sup>2</sup> On June 17, 2021, the Court granted the request in part and ordered the United States to deposit estimated just compensation in the Registry of the Court by July 2nd or the Court would dismiss the case. <sup>3</sup> The United States deposited estimated just compensation <sup>4</sup> on July 1, 2021. <sup>5</sup> Accordingly, because the parties agree on the discovery plan, <sup>6</sup> the Court enters this scheduling order. This case-specific scheduling order controls disposition of this action pending further order of the Court. The following actions shall be completed by the dates indicated:

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<sup>1</sup> Dkt. No. 30.

<sup>2</sup> *Id.* at 1.

<sup>3</sup> Dkt. No. 31.

<sup>4</sup> Dkt. No. 1-1 at 17.

<sup>5</sup> Dkt. No. 32.

<sup>6</sup> Dkt. No. 30 at 4, ¶ 11.

PRETRIAL EVENTS	DEADLINES
Deadline for all parties to designate expert witnesses and provide expert reports in accordance with Federal Rule of Civil Procedure 26(a)(2).	November 19, 2021
Deadline for all parties to designate rebuttal expert witnesses and provide expert reports in accordance with Federal Rule of Civil Procedure 26(a)(2).	December 17, 2021
Discovery deadline.	February 25, 2022
Deadline to notify the Court whether the parties (1) consent to the Court deciding the issue of just compensation upon briefs and evidence submitted therewith or (2) request an evidentiary hearing on the issue of just compensation.  <u>N.B.</u> : Parties may request a jury trial or a special commission <sup>7</sup> or consent to a bench trial. There is no right to jury trial. <sup>8</sup>	March 10, 2022
Deadline to file briefs and submit evidence (or anticipated evidence if an evidentiary hearing is requested) on the issue of just compensation.  <u>N.B.</u> : The Court will conduct a preliminary screening of the briefs and anticipated evidence submitted to determine whether the evidence is sufficient to order a jury trial if one is requested. <sup>9</sup>	March 17, 2022
Deadline to file all pretrial motions, including any dispositive motions, except motions in limine which shall be filed with the Joint Pretrial Order.	April 1, 2022

<sup>7</sup> FED. R. CIV. P. 71.1(h).

<sup>8</sup> *Ga. Power Co. v. 138.30 Acres of Land*, 596 F.2d 644, 647 (5th Cir. 1979), *aff'd sub nom. Ga. Power Co. v. Sanders*, 617 F.2d 1112, 1113 (5th Cir. 1980) (en banc).

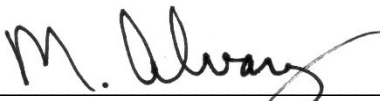
<sup>9</sup> *See United States v. 320.0 Acres of Land, More or Less in Monroe Cty.*, 605 F.2d 762, 819–20 (5th Cir. 1979); *United States v. 33.92356 Acres of Land, More or Less, in Vega Baja*, 585 F.3d 1, 8 (1st Cir. 2009) (citing *320.0 Acres*, 605 F.2d at 815) (“While the jury tries issues of valuation, the trial judge must screen the proffered best and highest uses . . .”).

Deadline to file joint pretrial order, motions in limine, and proposed jury instructions (or proposed findings of fact & conclusions of law). <sup>10</sup>	May 23, 2022
Final pretrial conference and trial scheduling, unless the parties elected for the Court to decide the issue of just compensation upon the briefs and evidence submitted therewith, in which case the conference is automatically cancelled.	June 22, 2022, at 9:00 a.m.

This scheduling order supersedes any earlier scheduling order, is binding on all parties, and shall not be modified except by leave of Court upon showing of good cause.<sup>11</sup> All other deadlines not specifically set out in this scheduling order will be governed by the Federal Rules of Civil Procedure and this Court's Local Rules.

IT IS SO ORDERED.

DONE at McAllen, Texas, this 29th day of July 2021.

  
 Micaela Alvarez  
 United States District Judge

<sup>10</sup> The Joint Pretrial Order must be in accordance with Appendix B of the Local Rules for the Southern District of Texas and must include the disclosures required by Federal Rule of Civil Procedure 26(a)(3).

<sup>11</sup> See FED. R. CIV. P. 16(b)(4).